

# ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of	)	
	)	
AMENDED 1997 TARIFF REVIEW PLANS	)	
	)	
	)	
LOCAL EXCHANGE CARRIER	)	CC Docket No. 93-193
COMPLIANCE FILINGS	)	Phase I, Part 2
	)	

## COMMENTS OF AT&T CORP.

AT&T Corp. ("AT&T") submits these comments on the Amended 1997 Tariff Review Plans<sup>1</sup> filed by Bell Atlantic, Pacific Bell and U S WEST, and the Refund Plan filed by Roseville Telephone Company, to comply with the Commission's April 17, 1997 Order in CC Docket No. 93-193.<sup>2</sup> The April 17 Order resolved several of the issues designated for investigation in the 1993 Access Order, as well as issues raised by the 1994, 1995 and 1996 annual access filings that were made subject to that investigation. For the reasons discussed below, the filings of the cited companies do not

<sup>1</sup> Material to be Filed in Support of 1997 Annual Access Tariffs, Tariff Review Plans, DA 97-593, released March 21, 1997 ("1997 TRP Order").

<sup>2</sup> 1993 Annual Access Tariff Filing etc., CC Docket No. 93-193, Phase I, Part 2 and CC Docket No. 94-65, Memorandum Opinion and Order, FCC 97-139, released April 17, 1997, para. 38 ("April 17 Order").

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appear to comply with the Commission's April 17 Order and thus raise significant questions of lawfulness which, at a minimum, will warrant suspension and investigation of the access tariffs which they will file in June 1997.<sup>3</sup>

**I. BELL ATLANTIC AND PACIFIC BELL HAVE FAILED TO PROPERLY CORRECT THEIR PAST SHARING DISTRIBUTION ERRORS.**

Commencing in 1993 and 1994, respectively, Bell Atlantic and Pacific Bell failed to include their End User Common Line ("EUCL") revenues from their total common line basket revenue for purposes of allocating sharing among their price cap baskets. In a series of separate orders, the Commission suspended these carriers' annual filings, made them subject to the CC Docket 93-193 investigation and imposed accounting orders.

The Commission's price cap rules require that LECs "make such temporary exogenous cost changes as may be necessary to reduce PCIs to give full effect to any sharing of base period earnings," and they further specify that such adjustments "shall be apportioned on a cost-causative basis

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<sup>3</sup> Section 402(b)(1)(A) of the Telecommunications Act of 1996 allows LECs to file tariffs on a streamlined basis and on 7 days notice for rate reductions and 15 days notice for rate increases. Accordingly, the LECs will not file their 1997 annual access tariffs until June 16 or 24, 1997, to become effective on July 1, 1997.

among the price cap baskets."<sup>4</sup> The Commission affirmed in the April 17 Order that "[t]o exclude EUCL revenues from the common line basket distorts the use of revenues as a proxy for costs because total revenues would not be used." Therefore, it rejected "Pacific and Bell Atlantic's contention that EUCL revenues may be excluded for purposes of allocating sharing amounts."<sup>5</sup> Accordingly, the Commission concluded that Bell Atlantic in its 1993, 1994, 1995 and 1996 annual access tariff filings, and Pacific Bell in its 1994, 1995 and 1996 annual access tariff filings had incorrectly allocated their sharing allocations among the price cap baskets.<sup>6</sup>

The Commission directed Bell Atlantic and Pacific Bell to follow a specific two-prong methodology to correct their price cap indices ("PCIs") and other pricing limits and to calculate their refund liability. In particular, the Commission ordered these carriers to:

(i) lower on an on-going basis the price cap indices and other pricing limits to the pricing limits that would have

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<sup>4</sup> See 47 C.F.R. Sections 61.45(d)(2) and (d)(4)(1996). See also Policy and Rules Concerning Rates for Dominant Carriers, 5 FCC Rcd 6786, 6805 (1990) ("LEC Price Cap Order").

<sup>5</sup> April 17 Order, para. 38.

<sup>6</sup> Id., paras. 39-40.

been in place had they correctly distributed the sharing amounts consistent with the Commission's rules and decisions, and (ii) lower the PCIs for one year from July 1, 1997 through an exogenous cost change, to refund overcharges that may have occurred during the course of the CC Docket 93-193 investigation.<sup>7</sup> AT&T's review of Bell Atlantic's and Pacific Bell's revised 1997 Tariff Review Plans ("TRPs"), filed May 8, 1997, reveals that, for reasons described below, both Bell Atlantic and Pacific Bell have failed to comply with the Commission's directive.

**A. Bell Atlantic Has Failed To Restate Its Price Cap Indices And Other Pricing Limits On An On-Going Basis To Correct Its Sharing Allocations.**

The April 17 Order directs Bell Atlantic to restate its 1993, 1994, 1995, 1996 and 1997 PCIs, SBI Upper Limits, APIs and CCL Rate Caps by properly distributing the sharing exogenous amounts among the price cap baskets. Specifically, the Commission requires Bell Atlantic to recalculate the " . . . price cap index in each basket, the SBI upper limit in each service category and subcategory, and the maximum CCL rates in the common line basket from the date the tariffs subject to this investigation took effect through the date the PCIs, SBI upper Limits and maximum CCL

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<sup>7</sup> Id., paras. 93-94.

rate changes pursuant to this Order take effect on June 30, 1997."<sup>8</sup>

Bell Atlantic admits that it "calculated the exogenous sharing amounts without restating its PCIs," -- an action in clear conflict with the Commission's April 17 Order.<sup>9</sup> Unless Bell Atlantic follows the Commission's prescribed methodology to restate its 1993 to 1996 PCIs and pricing limits based on the correct sharing distribution, it cannot correctly compute its refund liability.

**B. Bell Atlantic And Pacific Bell Have Impermissibly Computed Upward Exogenous Adjustments In Addition To Their Refund Obligation.**

In the April 17 Order, the Commission ordered Bell Atlantic and Pacific Bell to refund to their customers all amounts, plus interest, collected as a result of overcharges incurred during the course of the CC Docket 93-193 investigation. The Commission required that these refunds be included in the 1997 annual access filings to become effective on July 1, 1997 as a one-time exogenous cost.

In computing their exogenous costs, Bell Atlantic and Pacific Bell have not simply computed the amounts that

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<sup>8</sup> Id., para. 97.

<sup>9</sup> Bell Atlantic's Revised TRP, filed May 8, 1997, p. 3.

they are required to refund to their customers, but, in a flagrant violation of the Commission's ruling, they have also included the amounts that they believe their customers "owe" to them. For example, while Bell Atlantic computes its refund liability as a one-time exogenous reduction in its July 1, 1997 Common Line basket PCI of \$40.9 million, it also claims one-time exogenous cost increases of \$15.3 million, \$28.6 million and \$3.1 million, respectively, in the PCIs of the Traffic Sensitive, Trunking and Interexchange baskets.<sup>10</sup> Similarly, Pacific Bell computes its refund liability to customers as a one-time exogenous cost reduction in its July 1, 1997 Common Line PCI of \$25.1 million; and, at the same time, it seeks one-time exogenous cost increases of \$13.9 million and \$17.5 million, respectively, in the Traffic Sensitive and Trunking basket PCIs.<sup>11</sup> See Appendix A.

The procedure that the Commission established in Section V of the April 17 Order to compute the refund obligation allows no other outcome but a downward exogenous adjustment. Completely ignoring the Commission's prescribed methodology set forth in Section V, Bell Atlantic instead concocted its own procedure. Pacific Bell followed a

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<sup>10</sup> See Bell Atlantic's Revised TRP Filing, Workpaper S.

<sup>11</sup> See Pacific Bell's Revised TRP Filing, EXG-1 Form.

similar course of action, stating that in calculating the one-time exogenous cost adjustment of its Traffic Sensitive and Trunking baskets to calculate the refund liability, it first revised the PCIs and "[i]n cases where the revised PCI exceeded the originally filed PCI, [it] calculated an upward exogenous cost adjustment."<sup>12</sup>

The Commission should reject Bell Atlantic's and Pacific Bell's unjustified claims for upward exogenous adjustments not contemplated by the Section V procedure, nor the price cap rules. If Bell Atlantic and Pacific Bell have undercharged their customers due to their incorrect sharing allocations from 1993 to 1996, it was a voluntary business decision on their part and they cannot now claim that their customers "owe" them a refund. See 47 C.F.R. Section 61.45(d).

**II. U S WEST HAS MADE UNJUSTIFIED SHARING ADJUSTMENTS IN ITS REFUND LIABILITY.**

In the April 17 Order the Commission determined that U S WEST violated the Commission's rules in calculating its exogenous adjustment due to the DEM transition. It ordered U S WEST to recalculate its 1993 DEM exogenous costs and implement refunds in accordance with the directions in Section V of that Order.

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<sup>12</sup> See Pacific Bell's Revised TRP Filing, p. 2.

U S WEST filed its Amended TRP 1997 on May 8, 1997 to comply with the April 17 Order. On May 15, U S WEST filed an Erratum, reducing its May 8 refund amounts for its sharing obligations in 1993 and 1996.<sup>13</sup> This adjustment violates the procedure prescribed in Section V of the April 17 Order, which does not allow the LECs to make any adjustments in their refund liability for their past sharing obligations. The Commission should therefore reject the sharing adjustments claimed by U S WEST and direct it to implement its refund liability without making any sharing adjustments.

**III. ROSEVILLE HAS IMPROPERLY CALCULATED ITS REFUND FOR OVERSTATED CASH WORKING CAPITAL.**

The Commission's April 17 Order (Section II.G) addresses Roseville's over-calculation of cash working capital as filed in its 1993 annual filing. Specifically, the Commission determined that Roseville's lead-lag study for determining cash working capital contained several flaws, and ordered Roseville to recalculate its cash working capital under the standard 15-day allowance.<sup>14</sup>

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<sup>13</sup> See U S WEST's Erratum to Amended 1997 TRP filing, Workpaper 3, pp. 1 and 4, where U S WEST reduced the calculated refund amounts by \$49,195 and \$12,921, respectively, for a sharing adjustment.

<sup>14</sup> April 17 Order, paras. 67-70.

In its May 1, 1997 Refund Plan filing,<sup>15</sup> Roseville has incorrectly computed its refund amount. Specifically, Roseville has failed to apply the standard 15-day allowance to the full amount of the total interstate cash working capital expense, i.e., \$9,858,273,<sup>16</sup> as filed in 1993. Instead Roseville applied the prescribed methodology to a \$3,218,399 expense base, thereby significantly understating its refund obligation. Roseville should be required to base its refund on the full amount of interstate cash working capital expense in its 1993 annual filing.<sup>17</sup> As shown in Appendix B, this will result in a \$226,663 refund obligation, not the \$74,018 that Roseville computed.

Moreover, the Commission directed Roseville to use the IRS overpayment rate in effect on July 1, 1995, *i.e.*, 8 percent, whereas Roseville used 6.5 percent. Finally, Roseville's interest rate calculation period began 1/1/95, which does not reflect the full period of overearnings. Applying the correct IRS interstate rate for the full period

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<sup>15</sup> Roseville Telephone Company Refund Plan, 1993 Annual Access Tariff Filings, CC Docket No. 93-193, filed May 1, 1997.

<sup>16</sup> Roseville Telephone Company, Transmittal No. 30, Tariff FCC No. 1, Cost Support - Annual 1993 Access Charge Tariff Filings, filed April 2, 1993, Part 36 Separations, CWC-1, line 16.

<sup>17</sup> Id., Cost Support, Part 69 Total Interstate, line 27.

(7/1/93 to 6/30/97) results in an interest obligation of \$83,541. Accordingly, Roseville must refund a total of \$310,204.

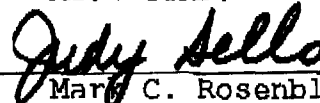
CONCLUSION

For these reasons, the compliance filings of the cited LECs appear incorrect and the Commission should require them to take the remedial actions noted. In addition, unless corrected, the Commission should suspend and investigate the interstate access tariffs of the cited LECs when those tariffs are filed in June 1997.

Respectfully submitted,

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By



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May 19, 1997

**Bell Atlantic**  
**1993-1996 Refund Liability**  
**For Reallocation of Sharing**

**Appendix A**

**Page 1 of 4**

<u>As Filed</u>	<u>Source</u>	<u>Common Line</u>	<u>Traffic Sens.</u>	<u>Trunking</u>	<u>IXC</u>	<u>Total</u>
1 Total 1993 Revised Sharing	WP S, Ln1	0	212,177	397,038	42,629	651,844
2 Total 1994 Revised Sharing	WP S, Ln2	(16,849,113)	6,411,585	11,997,773	1,288,175	2,848,420
3 Total 1995 Revised Sharing	WP S, Ln3	(24,043,849)	8,661,088	16,207,188	1,740,131	2,564,558
4 Total 1996 Revised Sharing	WP S, Ln4	(21,760)	7,756	14,514	1,558	2,068
5 Total Change	Sum of Ln 1 thru Ln 4	(40,914,722)	15,292,606	28,616,513	3,072,493	6,066,890

<u>Revised</u>	<u>Source</u>	<u>Common Line</u>	<u>Traffic Sens.</u>	<u>Trunking</u>	<u>IXC</u>	<u>Total</u>
1 Total 1993 Revised Sharing	WP S, Ln1 - Revised	0	0	0	0	0
2 Total 1994 Revised Sharing	WP S, Ln2 - Revised	(16,849,113)	0	0	0	(16,849,113)
3 Total 1995 Revised Sharing	WP S, Ln3 - Revised	(24,043,849)	0	0	0	(24,043,849)
4 Total 1996 Revised Sharing	WP S, Ln4 - Revised	(21,760)	0	0	0	(21,760)
5 Total Change	Sum of Ln 1 thru Ln 4	(40,914,722)	0	0	0	(40,914,722)

# PACIFIC BELL

## Refund Calculations Pursuant to CC Docket No. 93-193

### Switched Access Basket

<u>Row</u>		<b>Pre-Interest Sharing Allocation Refund (As Filed)</b>	<b>Pre-Interest Sharing Allocation Refund (Revised)</b>
(a)	(b)	(c) **	(d)
1	Original Filing		
2	1994 Annual Filing	\$952,478	\$0
3	OPEB	\$343,167	\$0
4	NECA Show Cause	\$112,578	\$0
5	1995 Annual Filing	\$9,090,164	\$0
6	1996 Annual Filing	\$1,805,142	\$0
7	Information	(\$142,232)	(\$142,232)
8	Database Access	(\$48,182)	(\$48,182)
9	NECA Show Cause	\$98,972	\$0
10	Information	(\$7,379)	(\$7,379)
11	Database Access	(\$2,456)	(\$2,456)
12	800 Data Base	\$1,023,158	\$0
13	Information	(\$75,944)	(\$75,944)
14	Database Access	(\$7,287)	(\$7,287)
15	OPEB Reversal	\$1,030,435	\$0
16	Information	(\$127,927)	(\$127,927)
17	Database Access	(\$105,463)	(\$105,463)
18	<b>Total Adjustment</b>	<b>\$13,939,222</b>	<b>(\$516,870)</b>

\*\* From Pacific Bell's Submission of Revised 1997 TRP filed on May 8, 1997, Workpaper IV-B, last column - "Pre-Interest Net Sharing Adjustment".

# PACIFIC BELL

## Refund Calculations Pursuant to CC Docket No. 93-193

### TRUNKING BASKET

<u>Row</u>		<u>Pre-Interest Sharing Allocation Refund (As Filed)</u>	<u>Pre-Interest Sharing Allocation Refund (Revised)</u>
(a)	(b)	(c) **	(d)
1	Original Filing		
2	Sharing Adjustment	\$677,969	\$0
3	Fiber Advantage	\$219,555	\$0
4	Zoned Pricing	\$243,362	\$0
5	Adv. Braodband Video	\$961,216	\$0
6	OPEB	\$440,718	\$0
7	Rate Adjustment	\$0	\$0
8	NECA Show Cause	\$150,208	\$0
9	1995 Annual Filing	\$11,443,200	\$0
10	1996 Annual Filing	\$2,516,046	\$0
11	Interconnection Chg.	(\$919,584)	(\$919,584)
12	Tandem Sw. Tprt.	(\$60,020)	(\$60,020)
13	VG,WATS,MET,Tgh		
14	- DTT Dens Zone 2	(\$5,649)	(\$5,649)
15	- DTT Dens Zone 3	(\$2,090)	(\$2,090)
16	Audio, Video	(\$65,631)	(\$65,631)
17	HiCap,DDS-DS1ind.		
18	- DS1 Cmb Dens Zn2	(\$309,334)	(\$309,334)
19	NECA Show Cause	\$1,595,341	\$0
20	Interconnection Chg.	(\$551,168)	(\$551,168)
21	Tandem Sw. Tprt.	(\$31,030)	(\$31,030)
22	VG,WATS,MET,Tgh		
23	- DTT Dens Zone 2	(\$817)	(\$817)
24	- DTT Dens Zone 3	(\$323)	(\$323)
25	Audio, Video	(\$38,866)	(\$38,866)
26	HiCap,DDS-DS1ind.		
27	- DS1 Cmb Dens Zn2	(\$184,317)	(\$184,317)
28	OPEB Reversal	\$1,461,613	\$0
29	Interconnection Chg.	(\$542,404)	(\$542,404)
30	Tandem Sw. Tprt.	(\$120,252)	(\$120,252)
31	VG,WATS,MET,Tgh	(\$55,604)	(\$55,604)
32	- DTT Dens Zone 2	(\$1,746)	(\$1,746)
33	- DTT Dens Zone 3	(\$133)	(\$133)
34	Audio, Video	(\$46,175)	(\$46,175)
35			
36	<b>Total Adjustment</b>	<b>\$17,540,397</b>	<b>(\$2,935,143)</b>

\*\* From Pacific Bell's Submission of Revised 1997 TRP filed on May 8, 1997, Workpaper IV-C, last column - "Pre-Interest Net Sharing Adjustment".

**PACIFIC BELL**  
**Refund Pursuant to CC Docket No. 93-193**  
**Summary**

	<b>Pre-Interest Sharing Allocation Refund <u>(As Filed)</u></b>	<b>Pre-Interest Sharing Allocation Refund <u>(Revised)</u></b>
<b>Common Line Basket</b>	<b>(\$25,086,159)</b>	<b>(\$25,086,159)</b>
<b>Traffic Sensitive Basket (Switched Access)</b>	<b>\$13,939,222</b>	<b>(\$516,870)</b>
<b>Trunking</b>	<b>\$17,540,397</b>	<b>(\$2,935,143)</b>
	<hr/>	<hr/>
<b>Total</b>	<b>\$6,393,460</b>	<b>(\$28,538,172)</b>

Roseville Cash Working Capital Refund Calculation

	(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)
	Interstate Cash Working Capital Expenses	Cash Working Capital Rate from 1993 Annual Filing (59.67Days/365)	Cash Working Capital from 1993 Annual Filing (A*B)	Revised Cash Working Capital Rate (15 Days/365)	Revised Cash Working Capital (A*C)	Overstated Cash Working Capital (C-E)	Effect on Interstate Income @ 11.25% (F*.1125)	Gross-Up for Taxes (G*1.67)
Roseville	9,858,273	0.16348	1,611,630	0.0411	405,175	1,206,455	135,726	226,663
							Total Over Collection	226,663

Notes: "A"; Roseville Telephone Company, Cost Support - 1993 Access Charge Tariff Filings; Part 36 Separations, CWC - 1, line 16  
 "B"; Roseville Telephone Company, Cost Support - 1993 Access Charge Tariff Filings; Part 36 Separations, CWC - 1, line 17  
 "C"; Roseville Telephone Company, Cost Support - 1993 Access Charge Tariff Filings, Part 69 Total Interstate, line 27  
 "D"; derived (15/365 days)

CERTIFICATE OF SERVICE

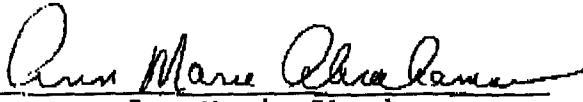
I, Ann Marie Abrahamson, do hereby certify that on this 19th day of May, 1997, a copy of the foregoing "Comments of AT&T Corp." was served by U.S. first class mail, postage prepaid, to the parties listed below.

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